

## HOUSE BILL NO. 286

INTRODUCED BY W. STAHL

A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING PRAIRIE DOGS FROM THE LIST OF NONGAME SPECIES IN NEED OF MANAGEMENT; AMENDING SECTION 87-5-102, MCA; REPEALING SECTION 3, CHAPTER 521, LAWS OF 2001; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, the 2001 session of the Montana Legislature approved a law authorizing the Department of Fish, Wildlife, and Parks to manage prairie dogs; and

WHEREAS, the Legislature passed the law because the U.S. Fish and Wildlife Service determined that prairie dogs warranted listing as threatened or endangered; and

WHEREAS, it was argued that if Montana failed to protect and manage prairie dogs, the U.S. Fish and Wildlife Service would list prairie dogs as threatened or endangered and that Montana would lose control over management of this species and vast amounts of public and private land; and

WHEREAS, the U.S. Fish and Wildlife Service dropped prairie dogs from its list of species under consideration for listing; and

WHEREAS, the U.S. Fish and Wildlife Service dropped prairie dogs from consideration because it determined that prairie dogs are so plentiful and widespread that the original consideration for listing was unjustified and that prairie dogs are so plentiful and widespread that no threat of extinction for the species exists; and

WHEREAS, because prairie dogs are no longer under consideration as either threatened or endangered, the Legislature opts to return prairie dogs to their status prior to enactment of protective legislation by the 2001 Legislature; and

WHEREAS, it is the intent of the Legislature to fully terminate state management of prairie dogs, including nullification of any regulations, management plans, or enforcement mechanisms pursuant to authority created by the Legislature.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 87-5-102, MCA, is amended to read:

1           **"87-5-102. (Temporary) Definitions.** As used in this part, the following definitions apply:

2           (1) "Account" means the nongame wildlife account established in 87-5-121.

3           (2) "Commercial purposes" means the collection, harvest, possession, or transportation of a species  
4 or subspecies of nongame wildlife from the wild with the intent to barter, offer for sale, ship or transport for  
5 eventual sale, or sell the animal or any part of the animal.

6           (3) "Ecosystem" means a system of living organisms and their environment, each influencing the  
7 existence of the other and both necessary for the maintenance of life.

8           (4) "Endangered species" means a species or subspecies of wildlife that is actively threatened with  
9 extinction ~~due to~~ because of any of the following factors:

10          (a) the destruction, drastic modification, or severe curtailment of its habitat;

11          (b) its overutilization for scientific, commercial, or sporting purposes;

12          (c) the effect on it of disease, pollution, or predation;

13          (d) other natural or artificial factors affecting its prospects of survival or recruitment within the state; or

14          (e) any combination of the foregoing factors.

15          (5) "Management" means the collection and application of biological information for the purposes of  
16 conserving populations of wildlife consistent with other uses of land and habitat. The term includes the entire  
17 range of activities that constitute a modern scientific resource program, including but not limited to research,  
18 census, law enforcement, habitat improvement, ~~control~~, and education. The term also includes the periodic  
19 protection of species or populations as well as regulated taking.

20          (6) "Nongame wildlife" means a wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or  
21 other wild animal not otherwise legally classified by statute or regulation of this state. Animals designated by  
22 statute or regulation of this state as predatory in nature are not classified as nongame wildlife for purposes of  
23 this part. ~~Prairie dogs are nongame wildlife and may be managed, controlled, and regulated under this part.~~  
24 ~~Management and control by counties and the department of agriculture pursuant to Title 7, chapter 22, part 22~~  
25 ~~or 25, and Title 80, chapter 7, part 11, and control by the department of natural resources and conservation on~~  
26 ~~state trust lands are permitted as long as the management and control are consistent with any management plan~~  
27 ~~approved by the department, the department of natural resources and conservation, and the department of~~  
28 ~~agriculture. Nothing in this part may be interpreted to limit a landowner's ability to control prairie dog~~  
29 ~~concentrations on private lands.~~

30          (7) "Optimum carrying capacity" means that point at which a given habitat can support healthy

1 populations of wildlife species, having regard to the total ecosystem, without diminishing the ability of the habitat  
2 to continue that function.

3 (8) "Person" means an individual, firm, corporation, association, or partnership.

4 (9) "Take" means to harass, hunt, capture, or kill or attempt to harass, hunt, capture, or kill wildlife.

5 (10) "Wildlife" means a wild mammal, bird, reptile, amphibian, fish, mollusk, crustacean, or other wild  
6 animal or any part, product, egg, or offspring or the dead body or parts of the animal. (~~Terminates October 1,~~  
7 ~~2007--sec. 3, Ch. 521, L. 2001.~~)

8 **87-5-102. (Effective October 1, 2007) Definitions.** As used in this part, the following definitions apply:

9 ~~—— (1) "Account" means the nongame wildlife account established in 87-5-121.~~

10 ~~—— (2) "Commercial purposes" means the collection, harvest, possession, or transportation of a species~~  
11 ~~or subspecies of nongame wildlife from the wild with the intent to barter, offer for sale, ship or transport for~~  
12 ~~eventual sale, or sell the animal or any part of the animal.~~

13 ~~—— (3) "Ecosystem" means a system of living organisms and their environment, each influencing the~~  
14 ~~existence of the other and both necessary for the maintenance of life.~~

15 ~~—— (4) "Endangered species" means a species or subspecies of wildlife that is actively threatened with~~  
16 ~~extinction due to any of the following factors:~~

17 ~~—— (a) the destruction, drastic modification, or severe curtailment of its habitat;~~

18 ~~—— (b) its overutilization for scientific, commercial, or sporting purposes;~~

19 ~~—— (c) the effect on it of disease, pollution, or predation;~~

20 ~~—— (d) other natural or artificial factors affecting its prospects of survival or recruitment within the state; or~~

21 ~~—— (e) any combination of the foregoing factors.~~

22 ~~—— (5) "Management" means the collection and application of biological information for the purposes of~~  
23 ~~increasing the number of individuals within species and populations of wildlife up to the optimum carrying~~  
24 ~~capacity of their habitat and maintaining those levels. The term includes the entire range of activities that~~  
25 ~~constitute a modern scientific resource program, including but not limited to research, census, law enforcement,~~  
26 ~~habitat improvement, and education. The term also includes the periodic or total protection of species or~~  
27 ~~populations as well as regulated taking.~~

28 ~~—— (6) "Nongame wildlife" means a wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or~~  
29 ~~other wild animal not otherwise legally classified by statute or regulation of this state. Animals designated by~~  
30 ~~statute or regulation of this state as predatory in nature are not classified as nongame wildlife for purposes of~~

1 this part.

2 ~~—— (7) "Optimum carrying capacity" means that point at which a given habitat can support healthy~~  
3 ~~populations of wildlife species, having regard to the total ecosystem, without diminishing the ability of the habitat~~  
4 ~~to continue that function.~~

5 ~~—— (8) "Person" means an individual, firm, corporation, association, or partnership.~~

6 ~~—— (9) "Take" means to harass, hunt, capture, or kill or attempt to harass, hunt, capture, or kill wildlife.~~

7 ~~—— (10) "Wildlife" means a wild mammal, bird, reptile, amphibian, fish, mollusk, crustacean, or other wild~~  
8 ~~animal or any part, product, egg, or offspring or the dead body or parts of the animal."~~

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10 **NEW SECTION. Section 2. Repealer.** Section 3, Chapter 521, Laws of 2001, is repealed.

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12 **NEW SECTION. Section 3. Effective date.** [This act] is effective on passage and approval.

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